

June 10, 2021

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE:

JOHNSON & JOHNSON TALCUM  
POWDER PRODUCTS MARKETING,  
SALES PRACTICES AND PRODUCTS  
LIABILITY LITIGATION

STATUS CONFERENCE VIA  
REMOTE ZOOM  
VIDEOCONFERENCE

\* \* \* \*

THURSDAY, JUNE 10, 2021

★ ★ ★ ★

BEFORE: SPECIAL MASTER JOEL SCHNEIDER, USMJ, RETIRED  
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Transcript of proceedings in the

above matter taken stenographically by

8 Theresa Mastroianni Kugler, Certified Court Reporter,  
9 license number 30X100085700, Notary Public of the  
10 State of New Jersey and the Commonwealth of  
11 Pennsylvania, VIA ZOOM REMOTE VIDEOCONFERENCE,  
12 commencing at 3:58 PM.

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1 SPECIAL MASTER SCHNEIDER: Let's go on  
2 the record. Thank you everyone for being available  
3 on short notice.

4 As I said in my email, I've been  
5 spending a lot of time going over the in camera  
6 documents and it occurred to me that there are a  
7 number of what I call background questions about the  
8 documents. I'd like to make sure I'm not missing  
9 something because when we argue the issues on the  
10 18th, I'd like to focus just on substantive issues.

11 I do not envision today we're going to  
12 do any argument, but just try to get the logistics in  
13 order so we can just focus on the merits and the  
14 issues when we argue the privilege dispute.

15 In general fashion, like I set forth in  
16 my email, unless I'm just missing something as clear  
17 as day, it's just obvious to me that I am unable to  
18 determine if some of the documents included in this  
19 binder are privileged without referencing some other  
20 documents that aren't attached. And it occurred to  
21 me after I sent the email out that that might be  
22 caused by the fact that that's just the way plaintiff  
23 designated documents from defendant's privilege log.

24 So that's the first issue.

25 And the second issue is: You all,

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1 plaintiffs, have received the descriptions that  
2 accompany each of the documents. They're attached to  
3 plaintiffs' brief. They're in the nature of argument  
4 really.

5 And, Mr. Bernardo, with all due  
6 respect, from reviewing those descriptions, some of  
7 the characterization of what the document says or  
8 doesn't say doesn't line up with at least what I  
9 reviewed. So I wanted to make sure that I'm not  
10 missing something.

11 And the third issue I didn't raise in  
12 my email, but I just raise it for discussion after we  
13 get through the first two issues is: I saw  
14 declarations from two people supporting defendant's  
15 application.

16 Mr. Bernardo, of course, yours was in  
17 the nature of an objective summary of who the  
18 companies are, who some of the principles are, the  
19 attorneys et cetera, that's fine. And then we  
20 received two declarations from the in-house, what  
21 I'll call the PR person, which is fine. I didn't see  
22 any declarations from any in-house counsel, Mr.  
23 O'Shaughnessy, Mr. White, Ms. Villani, Mr. or Mrs.  
24 Peterson, I don't know if it's a woman or a man, and  
25 I just wanted to make a thousand percent sure that

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1 I'm not missing something.

2 And related to that is in reading the  
3 motion to quash O'Shaughnessy's deposition in the  
4 state cases, he submitted an affidavit or declaration  
5 and I'd like to find out from the plaintiffs when we  
6 go through this if they have any objection, it's not  
7 part of the record in this case, but he sets forth  
8 some background as to his position with the company  
9 and his history with the company and I wanted to find  
10 out if the plaintiff would have any objection if I  
11 rely upon that declaration or affidavit just for the  
12 purpose of knowing what his objective employment  
13 history is.

14 So Mr. Bernardo, you tell me if I'm  
15 off-base or I'm missing something and I'll turn the  
16 floor over to you.

17 MR. BERNARDO: Well, of course you're  
18 not off-base, Judge. I think that has to be my  
19 answer.

20 Right?

21 What I would like to address, sort of  
22 as a preliminary matter, is something that we  
23 discussed yesterday. And for the folks on this call  
24 from the plaintiffs' side, Judge Schneider and we had  
25 a call with the New Jersey State Court plaintiffs

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1 discussing issues pertaining to Mr. O'Shaughnessy's  
2 deposition. So I just want to establish that was the  
3 reason we were talking to Judge Schneider.

4                 But on that call, Judge, you raised a  
5 very good point that you raised in connection with  
6 Mr. O'Shaughnessy's deposition that really pertains  
7 here to the documents as well and I wanted to put  
8 that on the table because Ms. Miller and I were  
9 looking at your email last week and looking at the  
10 materials and considering how to explain some of the  
11 answers to the questions that you raised.

12                 One of the tricky things that we  
13 realized in order to do that appropriately would  
14 require us to provide some privileged information  
15 about the documents and we wanted to address with  
16 your Honor -- and to be clear, some of the questions  
17 I think we can address and we'll do that without the  
18 need to identify privileged information. But I  
19 wanted to take the idea that you raised yesterday  
20 with respect to the O'Shaughnessy deposition and  
21 raise that here with respect to the privilege review  
22 which is the idea of some ex parte on the record  
23 communications to provide some additional information  
24 for your Honor which is not only consistent with how  
25 you explained to us yesterday that you've done it

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1 before, but certainly consistent with how I've done  
2 it in other cases. And equally, if not more  
3 important, how I believe it was done previously with  
4 Judge Pisano in this case. So I just wanted to put  
5 that on the table before I turn the mic over to  
6 Ms. Miller to address some of the substantive things  
7 that we can address in this more open forum.

8 MS. MILLER: I don't know if your Honor  
9 has a response to that or if I should --

10 SPECIAL MASTER SCHNEIDER: I don't  
11 think there is anything to respond to at the moment,  
12 Ms. Miller.

13 Let's focus on the questions in my  
14 email. I mean just the few examples I gave, it's  
15 patently obvious that I don't have enough information  
16 to decide the privilege issue with some of the  
17 documents that I have.

18 My preference is I want to decide these  
19 issues on the merits rather than saying it's  
20 defendant's burden of proof, they didn't supply me  
21 with anything to support it, objection overruled.  
22 I'd rather get to the merits of the issue. You saw  
23 some of the examples I gave. What do I do?

24 MS. MILLER: So, your Honor, there is a  
25 couple things I want to say in response to that.

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1                         First of all, some of the documents  
2     that you listed -- there were 12 documents listed in  
3     your email. Some of those documents don't actually  
4     have attachments. Because, for example, a lawyer --  
5     let me give one example would be someone sent a  
6     letter to outside counsel and said I'm sending you a  
7     bunch of documents. The person at J&J who sends a  
8     letter to outside counsel retains the letter that he  
9     sends to outside counsel, but wouldn't retain all of  
10    the materials that he was sending to outside counsel.  
11    So there are no attachments in the file of the person  
12    at J&J who sent the letter to outside counsel.

13                         But I would submit, your Honor, that if  
14    somebody is sending something to outside counsel, a  
15    letter that includes a bunch of materials to outside  
16    counsel, there is no plausible purpose for that other  
17    than to seek legal advice. And I know you don't want  
18    any legal argument today, but I would just, if I  
19    could, point out that I really do think when we do  
20    get to legal argument, that the appellant division's  
21    ruling in the Headden case is really important.  
22    Because in that case the plaintiffs -- you know, it  
23    was a very similar situation where the court was  
24    faced with an email asking general counsel, can you  
25    review this fundraising letter. And they said, well,

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1 we don't know why the general counsel was asked to  
2 review a fundraising letter. And the court said come  
3 on. It's the come on test, you know, it's the common  
4 sense test. And the court said the only plausible  
5 reason why someone is asking a general counsel to  
6 review a fundraising letter, the only plausible  
7 reason is because they want legal advice.

8                   And if you look at these documents that  
9 were sent to you -- so first of all, this one that  
10 we're talking about right now is sent to outside  
11 counsel at Nutter who are litigation counsel.

12                  MR. LAPINSKI: Can I interrupt, your  
13 Honor? Can I at least have a reference as to what  
14 document is being referred to right now?

15                  SPECIAL MASTER SCHNEIDER: I just asked  
16 the same thing. Yeah. I'd like to know, too.

17                  MS. MILLER: Sure.

18                  MR. LAPINSKI: And again, your Honor,  
19 you were clear in the email and you know to the  
20 extent that we do have to get to some oral argument  
21 here, I understand that, but --

22                  MS. MILLER: We don't have to get into  
23 oral argument --

24                  MR. LAPINSKI: Can I finish, Ms.  
25 Miller?

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1 MS. MILLER: Sure.

2 MR. LAPINSKI: So my point is only that  
3 to the extent that we're going to start getting into  
4 oral argument, plaintiffs haven't finished their  
5 briefing, haven't submitted their briefing, and  
6 within that context haven't finished all of our  
7 research as it would relate to any particular  
8 argument or any particular document.

9 SPECIAL MASTER SCHNEIDER: Ms. Miller,  
10 let me tell you what I think. And I'm perfectly fine  
11 with this. I'm very comfortable if the defendant  
12 says, Judge, we're standing on our submission, you  
13 didn't miss anything, we didn't inadvertently not  
14 send you something, our argument is, and I know there  
15 is case law on this obviously, this is no secret,  
16 that I can look at the four corners of the document  
17 and make the inferences you want. If the defendant's  
18 argument is going to be with regard to those -- those  
19 are examples I gave of documents, I've gone through  
20 the whole book now and there is a lot more, but those  
21 are just examples. If the defendant's position is,  
22 Judge, we're going to rise or fall on that document  
23 and our argument, that's perfectly fine. We'll hear  
24 plaintiffs argument and I'll make the call.

25 I just want to make a thousand percent

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1 certain that I'm not missing anything. That's all.  
2 I understand the argument you're going to make  
3 perfectly. And I know what the case law says, that I  
4 can look at the context of the argument and I can  
5 make the assumptions, whatever, and plaintiffs can  
6 argue to the contrary.

7 A good example is: There is a letter  
8 to an in-house patent attorney. And in the  
9 description that the defendants supplied, they said  
10 that it was for patent advice.

11 Okay?

12 I'm going to hear plaintiffs' argument  
13 on that and I would assume they're going to dispute  
14 that and I'll make the call. I'm perfectly  
15 comfortable making the call on that. But because  
16 there might be other reasons why an in-house patent  
17 attorney looks at the information that was provided  
18 apart from giving, quote/unquote, patent legal  
19 advice.

20 So if what you're saying is, Judge,  
21 this is our best shot, we gave it to you, we think  
22 the argument we made in the written submissions  
23 accompanying each document are supportable, I'm  
24 perfectly comfortable with that, Ms. Miller, and I'll  
25 make the call. So long as I'm comfortable that I'm

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1 not missing anything.

2 MS. MILLER: If I may, your Honor, I'd  
3 like to add a few more comments.

4 One is tab 52 is I think what you're  
5 referring to on that patent memo. And the subject  
6 line of that memo says: Patent file. And then it  
7 gives a number of a patent document. So that to me  
8 is an example of a document where it's self-evident  
9 that the memo to the patent lawyer is about a patent  
10 issue because it --

11 SPECIAL MASTER SCHNEIDER: That's fine.  
12 That's argument. We'll make that argument on the  
13 18th. That's argument.

14 Maybe the sky will fall in, Ms. Miller,  
15 and maybe the plaintiffs will agree with you. I  
16 doubt it, but maybe we'll get lucky and we'll see.

17 MS. MILLER: Your Honor, one of the  
18 things we're struggling with here is that at least  
19 half of these documents were created after this  
20 litigation had begun, while this litigation was in  
21 full throttle, and involved lawyers who are  
22 responsible for managing this litigation. There are  
23 a huge number of documents. It would not be  
24 practical to have these lawyers do a declaration with  
25 respect to every single document that's involved.

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1 That's just an enormous burden. And it is their only  
2 job to manage the litigation. Anything that is sent  
3 to them is sent to them in their role and --

4 SPECIAL MASTER SCHNEIDER: Ms. Miller,  
5 see that's an example of what I have -- you can tell  
6 I'm a little troubled by that.

7 That's a statement in a brief. I have  
8 no support for that. I didn't get an affidavit from  
9 any lawyer to explain that. I'm asking for help that  
10 hopefully I can rely on O'Shaughnessy's affidavit  
11 from the other case that he says he only dealt with  
12 litigation. Other than that, there is nothing -- you  
13 tell me where there is something that I could rely on  
14 to support that notion.

15 One of the things that struck me about  
16 the defendant's submission was I didn't get that  
17 affidavit. I don't know why, but that's okay. I  
18 understand the practicalities you're raising, but you  
19 know as well as I do that merely because a statement  
20 is included in a brief, that I can't rely on that as  
21 fact.

22 So you're telling me that all these  
23 people, all they do are litigation, how do I know  
24 that?

25 MS. MILLER: Well, I believe that in

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1 Rich Bernardo's declaration he identified the roles  
2 of the counsel and who is responsible for litigation.

3 SPECIAL MASTER SCHNEIDER: I will  
4 certainly study that in detail, Ms. Miller.

5 Okay. So maybe we have an answer to  
6 the question I asked.

7 I'm very comfortable if the defendant's  
8 position is it's going to rise or fall on this, I'm  
9 not missing anything, that's okay. And I'll make my  
10 decision accordingly. I just wanted to relay to the  
11 parties some concerns I have because sometimes I only  
12 have less than a sentence and I'm supposed to  
13 determine if it's privileged or not?

14 MS. MILLER: Well, your Honor, to the  
15 extent any of these emails have families, as they are  
16 called in privilege parlance, which is attachments,  
17 or to the extent any attachments have cover emails,  
18 we're happy to provide those. If you think that will  
19 be helpful to your review, we're happy to provide  
20 them.

21 I think they just weren't provided  
22 originally because originally that's how it was done  
23 with Judge Visconti and she found it to be an  
24 inordinate amount of paper, to be honest. So if that  
25 would be helpful for your Honor, we're happy to

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1 provide that.

2 SPECIAL MASTER SCHNEIDER: My position,  
3 Ms. Miller, has to be: Whatever the defendant feels  
4 I should see, they should submit it.

5 I don't want to be in the position  
6 where I'm telling the defendants what to submit and  
7 what not to submit. That's what I have to say.

8 But let's take an example, Ms. Miller.  
9 I just pulled this out. Number 49.

10 Okay?

11 I wish I could read this to the  
12 plaintiffs because it's so innocuous.

13 MR. LAPINSKI: I don't object, your  
14 Honor, if you --

15 SPECIAL MASTER SCHNEIDER: I know.

16 (Laughing)

17 You see it, Ms. Miller? 49?

18 Would you agree with me, and if I'm  
19 wrong, please point it out.

20 Would you agree with me, how in the  
21 world can I tell that this is privileged or not from  
22 just reading this one sentence?

23 MS. MILLER: Well, your Honor, my  
24 position is that the only reason this is sent to  
25 counsel is to get counsel's advice on whether these

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1   labels are appropriate or not from a legal  
2   perspective. There is absolutely no other reason you  
3   would be sending draft labeling to a lawyer. And the  
4   attachments are just the drafts of the labels for  
5   which they were seeking legal approval.

6                         So this is actually an example where we  
7   are happy to send you the draft labeling for which  
8   they were seeking legal approval, but the cover  
9   letter was just seeking legal approval of some draft  
10   labeling. And so the drafts don't add any -- they  
11   don't add any context to the privilege nature of the  
12   communication because they're just the draft labeling  
13   for which that approval was being sought.

14                         SPECIAL MASTER SCHNEIDER: Ms. Miller,  
15   is that another way of arguing, and I don't want to  
16   get into argument now, we'll save it, but everything  
17   that is written to Mr. O'Shaughnessy is privileged  
18   because he's a hundred percent litigation?

19                         MS. MILLER: No. No, your Honor. I  
20   would not say that.

21                         Anything that's written to Mr.  
22   O'Shaughnessy seeking his approval or disapproval in  
23   his role as a lawyer is privileged.

24                         If somebody emails Mr. O'Shaughnessy  
25   asking him to attend a meeting that's not for a legal

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1 purpose, asking him out to lunch, asking him  
2 something that's not in his role as a lawyer, that's  
3 different. But if somebody is asking Mr.  
4 O'Shaughnessy to approve something, that is  
5 specifically in his role as a lawyer. Because that  
6 is the only capacity he has to approve or disapprove  
7 of a label. He doesn't have any other expertise to  
8 approve or disprove of something.

9 MR. PLACITELLA: I'm just trying to  
10 understand something, your Honor.

11 So is the argument that litigation  
12 counsel approves labels for the corporation?

13 Is that what they're saying?

14 MS. MILLER: What we are saying is  
15 that, and I don't know that -- that is not -- I don't  
16 think that is a very fair question.

17 Obviously, when a corporation is  
18 enmeshed in a lot of controversy, they are going to  
19 be very concerned that lawyers are going to come  
20 after them from a lot of different perspectives. So  
21 obviously you're going to run things by your  
22 regulatory lawyers, you're going to run things by  
23 your litigation lawyers, you're running things by all  
24 your lawyers because you're being barraged from all  
25 sorts of directions. It's very natural and of course

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1 you're going to run your labels by lawyers because  
2 lawyers like those on this Zoom are going to come  
3 after you and criticize your labels in court. So  
4 yes, of course you're going to ask your litigators if  
5 your labels are okay. Come on.

6 MR. BERNARDO: May I make a suggestion,  
7 Judge Schneider?

8 In just sort of listening, I think  
9 we're getting an understanding of the point you're  
10 raising and I would like an opportunity to discuss it  
11 at our end because I think what we're trying to say  
12 is that the burden of trying to support all of these  
13 with affidavits that address what we felt are  
14 self-evident points seems extreme particularly when  
15 some of the people are dead, et cetera. But we hear  
16 what your Honor is saying and would like an  
17 opportunity to at least consider it a little bit  
18 further and, if appropriate, we can supplement  
19 something quite quickly.

20 I don't think it's something that would  
21 warrant like a change in plaintiff's position in  
22 terms of responding or otherwise because they're  
23 going to be sworn statements of the very same thing  
24 they already argued.

25 In other words, I'm not suggesting

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1 we're going to come up with new arguments or  
2 different arguments, we're just going to consider the  
3 point that your Honor has made as to the, I'll say,  
4 sufficiency of proof that we have submitted. And as  
5 Ms. Miller said, happy to provide the attachments.

6 Again, I sort of go back to my earlier  
7 comment that some of this is a little bit easier to  
8 discuss if we can get into some more privileged  
9 issue, but we can put that to the side.

10 But does that make sense, your Honor,  
11 and is that appropriate if we can at least consider  
12 overnight having kind of listened to your Honor and  
13 heard some of the issues if it's appropriate and we  
14 can let you know what we plan to do?

15 SPECIAL MASTER SCHNEIDER: You heard me  
16 say I'm not going to tell any party what to submit or  
17 not to submit, Mr. Bernardo.

18 I think what I appreciate hearing  
19 coming out of this session is we're going to hear the  
20 argument, Judge, that it's self-evident from the  
21 context and language and positions of the documents  
22 that they're privileged. I understand that argument.  
23 That argument has been made thousands of times in  
24 cases. It's not a surprise.

25 Plaintiffs will undoubtedly disagree,

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1 but that's okay. That's why we have lawsuits. I'm  
2 comfortable now that I understand the defendant's  
3 background position and that I'm not missing  
4 anything.

5 I would rather have this discussion  
6 today than the 18th when hopefully we're just going  
7 to deal with substantive issues. Like I said, I  
8 consider this background issues and I wanted to deal  
9 with the low-hanging fruit before we get to the main  
10 event.

11 MR. LAPINSKI: Your Honor, if I could  
12 just raise a concern that I have, your Honor.

13 If defendant is providing copies of  
14 attachments to emails in order to help you put in  
15 better context whether an email may or may not be  
16 privileged, I don't know that I have an issue with  
17 that. I do raise concern about defendants meeting  
18 amongst themselves and deciding whether or not they  
19 want a second bite at the apple and submit attorney  
20 affidavits which they had time and opportunity to do  
21 before they submitted their original briefing, and  
22 now we're on a 96-hour time frame before we have to  
23 file our response to their motion. I have concern  
24 about defendants turning around and sometime over the  
25 weekend submitting attorney affidavits in order to

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1 further support their arguments.

2 SPECIAL MASTER SCHNEIDER: Mr.

3 Lapinski, you have my one hundred percent assurance  
4 that if the defendants decide to supplement, that the  
5 plaintiffs will have every fair opportunity to  
6 respond, even if it's after the 18th. In no way,  
7 shape or form will either side be short-changed in  
8 the opportunity to present this issue on the merits.

9 I want to decide the issue on the  
10 merits and not on some technicality procedural issue  
11 whatever. So even if you don't have -- I don't know  
12 what they're going to do, but even if you don't have  
13 time to respond, rest assured that no decision will  
14 be made until you're comfortable that you, on behalf  
15 of the plaintiffs, have exhausted every opportunity  
16 to set forth your position. Scouts honor.

17 MR. LAPINSKI: And, your Honor, I  
18 wouldn't think that you would do anything but provide  
19 us an opportunity like that. I think my concern  
20 comes from the fact that we amended the briefing  
21 schedule, tried to keep our eye on June 18th as the  
22 date that we were going to have argument and we did  
23 so because we have some pretty important depositions  
24 that are scheduled in the very near future. And the  
25 documents that are at issue here are documents that

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1 are relevant to the depositions that are going to go  
2 forward including the deposition of Mr.  
3 O'Shaughnessy. And I don't have all of the specifics  
4 of the conversation that Mr. Bernardo has been having  
5 with Mr. Tisi about coordinating that, but to the  
6 extent that there are documents that are going to  
7 be -- have to be produced by the defendants based  
8 upon your decisions, we want to be able to have a  
9 quick turn-around on those documents that are  
10 available for our use during that deposition. And  
11 pushing the timeline out beyond June 18th makes that  
12 more difficult.

13 MR. BERNARDO: And I will represent  
14 that we -- and you know, as you pointed out, Dan,  
15 that Chris and I have been having conversations.  
16 We've also been having conversations about how to  
17 address that particular point. And we're working  
18 together to try to address it.

19 In other words, I think the volume of  
20 documents that impact the deposition of Mr.  
21 O'Shaughnessy are not that many. We've already  
22 undertaken to agree to have ready to go any that  
23 Judge Schneider would disagree with us and where we  
24 didn't feel as if we wanted to appeal that. So that  
25 is something, your Honor, that we are mindful of, you

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1 mentioned that to us before, we heard your words, and  
2 we're sort of working together to address that.

3 SPECIAL MASTER SCHNEIDER: Has anything  
4 been worked out about when the deposition of Mr.  
5 O'Shaughnessy is going to be held in the ovarian  
6 cancer cases?

7 MR. BERNARDO: I promised Mr. Tisi that  
8 we would not get into this in fairness to Chris --

9 SPECIAL MASTER SCHNEIDER: Okay.

10 MR. BERNARDO: -- since he's here. But  
11 I can say, and plaintiffs, I think this is fair, I  
12 can say we're working together to see if we can move  
13 that a bit in light of the discussion we had  
14 yesterday. But I would rather not get further into  
15 that, but I think from a scheduling standpoint I  
16 think I can at least make that point.

17 SPECIAL MASTER SCHNEIDER: Okay.

18 I could be wrong, but from what I  
19 understood, there might be a time crunch in the other  
20 cases because of the upcoming trial. But as to this  
21 trial, if Judge Wolfson is not going to try it until  
22 2022, it would seem that you have a little bit of a  
23 buffer. But I'll leave that in your very capable  
24 hands about what to work at your timing. As I said,  
25 I'll defer to the counsel on that issue.

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1                   The last issue that I had raised is  
2 whether the plaintiffs would have any objection, I  
3 just referred to the O'Shaughnessy declaration or  
4 affidavit that was submitted in connection with the  
5 motion to quash, I'm really just interested in his  
6 background information, his employment history,  
7 nothing else for the time being.

8                   Mr. Lapinski, any objection to that?

9                   MR. LAPINSKI: Is a satisfactory  
10 response for right now: Can I get back to you on  
11 that?

12                  SPECIAL MASTER SCHNEIDER: Sure.

13                  MR. LAPINSKI: I'd like to be able -- I  
14 don't want to say yes or no without going back and  
15 again looking at what was submitted so that I fully  
16 understand what's in there before I --

17                  SPECIAL MASTER SCHNEIDER: All I'm  
18 really interested in is his employment history and  
19 duties.

20                  MR. LAPINSKI: Okay.

21                  SPECIAL MASTER SCHNEIDER: That's it.

22                  MS. O'DELL: Your Honor, excuse me for  
23 interrupting. Dan, I'm sorry.

24                  I'm not sure that we have access to  
25 that affidavit. I don't know if --

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1                   MR. BERNARDO: Leigh, I was going to  
2 jump in, but I figured I would do it afterward. I'll  
3 make that available to you.

4                   MS. O'DELL: Okay.

5                   MR. BERNARDO: I actually think, I  
6 could be wrong, and Jessica would know better than I,  
7 I thought it might also have been annexed to the  
8 motion to quash filed in Pennsylvania. But if you  
9 don't have it, we'll make it available.

10                  MS. O'DELL: Yeah. I didn't know if it  
11 was different or what the context was that he was  
12 referring to as a submission. So thank you.

13                  SPECIAL MASTER SCHNEIDER: And I  
14 assume, Mr. Bernardo, that the declarations I  
15 referred to, yours and the two from what I call the  
16 PR person, those were produced in full to the  
17 plaintiffs?

18                  MR. BERNARDO: That's correct, your  
19 Honor.

20                  SPECIAL MASTER SCHNEIDER: Okay.

21                  I think that covers all the issues I  
22 wanted to address.

23                  Like I said, hopefully we didn't touch  
24 too much on argument or substantive issues, but I  
25 think this discussion was helpful to help prepare for

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1 next week.

2 So unless somebody else has any other  
3 issues, we can adjourn. I'll look forward to  
4 receiving the plaintiffs' papers. You may not get a  
5 ruling on the 18th, but you'll get a ruling very  
6 quickly, soon after that, realizing everything that's  
7 going on.

8 MR. LAPINSKI: Thank you very much,  
9 your Honor.

10 SPECIAL MASTER SCHNEIDER: Thank you  
11 again, everybody. Thank you, Theresa.

12 We're adjourned.

13 MS. SHARKO: Thank you.

14 MR. BERNARDO: Judge, are you sending  
15 out the Zoom for the New Jersey for tomorrow? If you  
16 were, we thought you all were doing that, we haven't  
17 received one.

18 (Off-the-record discussion)

19 SPECIAL MASTER SCHNEIDER: Let's make  
20 sure no one is in the dark about that. That is a  
21 discussion about purely logistical issues regarding  
22 the O'Shaughnessy deposition in the state cases.

23 We're not discussing any privilege  
24 issues, any substantive issues, but there was a  
25 discussion whether we're going to do it live or by

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1      Zoom and how much time we're going to take and the  
2      mechanics of this refereeing, et cetera, et cetera.

3                So, plaintiffs, I want to put your mind  
4      at ease that no substantive issues will be discussed.

5                MR. BERNARDO: And I appreciate that,  
6      your Honor, and I've also been trying to do my role  
7      of coordinating and I've been filling in for Mr. Tisi  
8      who I've been working with on that issue to let him  
9      be advised of what's coming up, but I appreciate your  
10     raising that as well.

11               SPECIAL MASTER SCHNEIDER: Okay.

12               Thank you everybody. We're done.

13               Have a good weekend, if I don't talk to  
14     you.

15               (Hearing adjourned)

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## C E R T I F I C A T E

2

3           I, Theresa Mastroianni Kugler, a Notary Public  
4 and Certified Shorthand Reporter of the State of New  
5 Jersey, do hereby certify that the foregoing is a  
6 true and accurate transcript of the testimony as  
7 taken stenographically by and before me at the time,  
8 place, and on the date hereinbefore set forth.

9           I DO FURTHER CERTIFY that I am neither a  
10 relative nor employee nor attorney nor counsel of any  
11 of the parties to this action, and that I am neither  
12 a relative nor employee of such attorney or counsel,  
13 and that I am not financially interested in the  
14 action.

15

16

17

18

DocuSigned by:  
  
439DA87C1C71495...

19           Theresa Mastroianni Kugler, C.S.R.  
20 Notary Public, State of New Jersey  
My Commission Expires May 5, 2021  
21 Certificate No. X10857  
Date: June 10, 2021

22

23

24

25

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